

§ 1.101-5

26 CFR Ch. I (4-1-98 Edition)

amount of each payment which is includible in gross income under section 101(c) (item (b)). In this example, therefore, the beneficiary must include \$185 of each monthly payment in gross income (amount includible under section 101(c)), but may exclude the \$25.86 which is otherwise includible under section 101(d). The payment of \$100,000 which is payable to the beneficiary on the 20th anniversary of the basic policy will be entirely excludable from gross income under section 101(a).

(3) *Limitation on amount considered to be an "amount held by an insurer"*. See paragraph (b)(3) of this section for a limitation on the amount which shall be considered an "amount held by an insurer" in the case of proceeds of life insurance which are paid subsequent to the transfer of the policy for a valuable consideration.

(4) *Effective date*. The provisions of this paragraph are applicable only with respect to amounts received during taxable years beginning after October 28, 1961, irrespective of the date of the death of the insured.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 6577, 26 FR 10127, Oct. 28, 1961; 26 FR 10275, Nov. 2, 1961]

§ 1.101-5 Alimony, etc., payments.

Proceeds of life insurance policies paid by reason of the death of the insured to his separated wife, or payment excludable as death benefits under section 101(b) paid to a deceased employee's separated wife, if paid to discharge legal obligations imposed by a decree of divorce or separate maintenance, by a written separation agreement executed after August 16, 1954, or by a decree of support entered after March 1, 1954, shall be included in the gross income of the separated wife if section 71 or 682 is applicable to the payments made. For definition of "wife", see section 7701(a)(17) and the regulations thereunder.

§ 1.101-6 Effective date.

(a) Except as otherwise provided in paragraph (h)(4) of § 1.101-4, the provisions of section 101 of the Internal Revenue Code of 1954 and §§ 1.101-1, 1.101-2, 1.101-3, 1.101-4, and 1.101-5 are applicable only with respect to amounts received by reason of the death of an insured or an employee occurring after August 16, 1954. In the case of such

amounts, these sections are applicable even though the receipt of such amounts occurred in a taxable year beginning before January 1, 1954, to which the Internal Revenue Code of 1939 applies.

(b) Section 22(b)(1) of the Internal Revenue Code of 1939 and the regulations pertaining thereto shall apply to amounts received by reason of the death of an insured or an employee occurring before August 17, 1954, regardless of the date of receipt.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 6577, 26 FR 10128, Oct. 28, 1961]

§ 1.101-7 Mortality table used to determine exclusion for deferred payments of life insurance proceeds.

(a) *Mortality table*. Notwithstanding any provision of § 1.101-4 that otherwise would permit the use of a mortality table not described in this section, the mortality table set forth in § 1.72-7(c)(1) must be used to determine—

(1) The amount held by an insurer with respect to a beneficiary for purposes of section 101(d)(2) and § 1.101-4; and

(2) The period or periods with respect to which payments are to be made for purposes of section 101(d)(1) and § 1.101-4.

(b) *Examples*. The principles of this section may be illustrated by the following examples:

Example (1). A life insurance policy provides only for the payment of \$5,000 per year for the life of the beneficiary, A, beginning with the insured's death. If A is 59 years of age at the time of the insured's death, the period with respect to which the payments are to be made is 25 years. This period is determined by using the mortality table set forth in § 1.72-7(c)(1), and is shown in Table V of § 1.72-9 (which contains life expectancy tables determined using this mortality table). If the present value of the proceeds, determined by reference to the interest rate used by the insurance company and the mortality table set forth in § 1.72-7(c)(1), is \$75,000, \$3,000 of each \$5,000 payment (\$75,000 divided by 25) is excluded from the gross income of A.

Example (2). A life insurance policy provides for the payment of \$82,500 in a lump sum to the beneficiary, A, at the death of the insured. Upon the insured's death, however, A selects an option for the payment of \$2,000 per year for life and for the same amount to be paid after A's death to B for B's life. If A